IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 1431 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHAKARBANU AMIRALI KHOJA

Versus

SUGARABAI ALIDINA KHOJA D/O LATE ALIDINA JANMAMAD KHOJA

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Appearance :
MR MEHUL S SHAH for Applicants No. 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4,1.2.5
MR SURESH M SHAH for Applicants No.1, 1.2.1, 1.2.2, 1.2.3, 1.2.4,1.2.5
MR VG DAVE for MR YOGESH S LAKHANI for Opponent.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 28/02/2006

ORAL JUDGMENT

This revision application is filed by the original defendants of Regular Civil Suit No.72/2001. Said suit is filed by the respondent herein for possession of the suit house and for declaration and permanent

injunction. It is the case of the plaintiff that her late father Alidina Khoja was the owner of house bearing No.5/2/104 situated at village-Mundra. According to the plaintiff, her father passed away about 55 years ago. According to the plaintiff, the defendants are the tenants of the suit property. It is alleged that under the pretext of earthquake and without obtaining her written consent and without obtaining prior permission of Mundra Panchayat, the defendants made permanent structure and thereby they are trying to change the identity of the suit property. On the aforesaid ground suit was filed for declaration and permanent injunction. In that suit, an application at Exh.5 was given for interim injunction. Learned trial Judge granted interim injunction to the effect that during the pendency of the suit, the defendants may maintain status-quo. Against this order, applicants herein– original defendants preferred an appeal under Order 43 of the Civil Procedure Code, which was numbered as Civil Appeal No.55/2001. In said appeal, the appellate Court confirmed the order passed by the trial Court below Exh.5 application. Against this order of the appellate Court, present revision application is preferred by the applicants.

Case of the defendants - present applicants is that since the property is damaged due to earthquake they have right to make appropriate renovation in the suit property.

The fact remains that since 2001, an order of status-quo is in force and, therefore, instead of modifying the order of interim injunction which is confirmed by appellate Court at this stage, especially when the status quo is in force since more than five years, it would be just and proper to direct the trial Court to dispose of the suit expeditiously and latest by 30th

June, 2006. Since the defendants are directed to maintain status-quo, meaning thereby they may not be in a position even to renovate the premises. In my view, therefore, suit cannot be required to be kept pending for a long time. Under these circumstances, without interfering with the order of status-quo, trial Court is directed to dispose of Regular Civil Suit No.72/2001 pending before Civil Judge, Mundra, Kutch latest by 30th June, 2006.

Mr.V.G.Dave for Mr.Lakhani, learned advocate for the opponent submitted that during the pendency of the suit, his client will also maintain status-quo so far as possession of the defendants is concerned.

With above directions, this Civil Revision Application is disposed of. Rule is discharged with no order as to costs. Writ to be sent to the trial Court forthwith.

(P.B.MAJMUDAR, J.)

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